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York County Wetlands Board

RE: Wetlands Application 09-26
VMRC # 09-0806

As an adjacent property owner of the proposed structures I would like to express my extreme reservations as related to this application. The proposal encompasses a complete re-engineering of a parcel that experiences no erosion control issues, particularly across the southwestern face, and has remained statically unchanged during my residency here – 29 years. Specific areas of concern are outlined below:

1. Navigability of the canal adjacent to the property is extremely valuable to myself and other current and future boaters on Creek Circle. The ability to go directly out from the canal and into Chisman creek provides a priceless convenience, and tampering with this facility can not be justified in a way that the spur, extending off the Southeast-most corner, would compromise it. I have been present at meetings of the Wetland Board and the Ches-Bay Board where the silt flow coming around the point from the Chesapeake Bay has been acknowledged as a significant problem, and to think that sediment would not begin to build up on the southeast side of that spur directly across from Mr. Bavuso's property, causing navigability problems, would be irresponsible. Even the slightest build up of several inches would adversely affect residents' ability to access our existing channel.
2. Navigability of Cabin Creek is beginning to become compromised in certain places and the thought of dumping 6500 cubic yards of fill within a short distance of the channel can only hasten the degradation of the channel, causing undue hardship on the 15 homes present on Cabin Creek. The prevailing tidal flow in and out of Chisman Creek would be sure to cause an outflow of fill from inside the proposed structure, on the western side leaving it to wash in the channel and destroy the navigational properties of the Cabin Creek channel.
3. The area in which the proposed structure is constructed facing Chisman Creek and the Poquoson River is by all accounts navigable water, and is used on a weekly basis by fishermen, crabbers, and for general navigation of smaller vessels. Any structures that extend this far into the waterway only serve as a man-made impediment.
4. The proposed structure is a functional means of erosion control in areas where wave action and pounding surf are an issue. However, this property, and the bulk

of the construction, enjoy a southwestern exposure situated across a relatively narrow creek; a location that leaves it thoroughly shielded from the predominant northeastern winds and exposed to almost non-existent opportunities to succumb to tidal erosion as a result of wave action. Again, it is easy to see the value in these projects in situations like the one in front of Yorktown's Riverwalk or the recently completed project at the end of York Point Drive, but when a parcel is sandwiched in between two heavily trafficked channels, and not exposed to these elements, I fail to see how the risk to 21 residents (15 on Cabin Creek and 6 on the adjoining channel) can justify the construction.

5. As evidenced in the attached photo the area where the majority of the construction will take place, the southwestern face exposed to Chisman Creek, has experienced no tidal erosion in many decades. The picture shows the exposed area of proposed construction on a low tide taken during January of 2009, and even the untrained eye can tell that this is pocked bottom, typical of what is found in stable wetland areas, and is not an area that is covered by sediment flow from erosion. Upon closer observation you are able to see a tire that has been sitting there for decades undisturbed and with no erosion based sediment or silt build up. The texture of the mud is very obviously that of an area not impacted by erosion and does not pose a risk of future erosion, nor does it threaten the two surrounding tangential channels.
6. There is no doubt that the current seawall structure of hastily laid, and un-engineered crushed concrete is not befitting of a property of this caliber, but it has to be recognized that this form of erosion control has worked for many decades on this parcel. A traditionally prepared seawall of blue crushed stone would provide this property more than enough protection while maintaining the current structure and size of the property and providing minimal risk to the other residents.
7. I have to question what are the repercussions of allowing a proposal like this to be accepted? Would other residents with similar properties in the neighborhood be allowed to do the same thing? Would Mr. Bavuso of 114, Creek Circle or Mr. Smith of 117 Creek Circle, or similar residents at the ends of Chisman Circle be permitted the same opportunity to obstruct the navigable waters, disrupt current channels and significantly increase their lot size through a similar methodology? This seems like a dangerous precedent – this crosses the line between protecting existing parcels, and creating additional property.
8. I have to reiterate the grandiosity of this project: adding roughly a half an acre of land to an environmentally sensitive property (approximately a 20% increase in parcel size). To put it in perspective the average dump truck carries between 6 and 8 cubic yards which means this proposal would require somewhere between **800 and 1100** dump trucks full of dirt, all of which would be precariously positioned in a tributary of the Chesapeake Bay surrounded on ALL three sides by channels used by other residents.
9. A less important but admittedly realistic concern of mine is the impact of the vegetation. The property currently includes a marsh area that is a tremendous contributor of mosquitoes, and other bugs that the county and residents try so hard to combat. Creating thousands of square feet of vegetation to further harbor insects would be an unfortunate side effect of the project suffered by not only the

property owner but the surrounding residents, increasing the use of readily available toxic sprays (which we have traditionally not used due to environmental concerns).

To Summarize:

- A drastic re-engineering of this parcel is not necessary to provide above-adequate erosion control, as evidenced by the fact that the current structure has proved suitable for many decades. The proposed structure is unnecessary and out of place within the circumstances of this parcel – minimal exposure to wave and wind based erosion.
- All the computer modeling in the world can not predict where the fill could potentially end up and if any is to leave the proposed structure either eastward, westward, or southward it will begin to fill in a channel, and that risk will only be endured by surrounding residents. The risk of compromising the current navigability of the channels during a storm is excessive.
- Increasing protection of wetlands and the Chesapeake Bay by filling it in, obstructing navigability and destroying existing habitation seems counterintuitive to me.

I question where the liability exposure and consequential recourse and remediation lies within the potential acceptance of this proposal. Does it lie with the VMRC, the Wetlands board, the Army Corps of Engineers, the ChesBay board or York County in general?

Many of the views expressed in this letter echo the sentiments of concerned residents on both Creek Circle, and along York Point Road with access to Cabin Creek, and are based on discussions had throughout the summer of 2009.

In conclusion, I would hope that the regulatory agencies and those charged with governance would view this proposal from a risk/benefit perspective. Recognizing that the risk to many long term, current, and future residents is great and that the reward for approving such a proposal is only reaped by two persons – the applicant, who greatly expands his parcel beyond his current property line through filling, and the architect who is able to put this project on his resume.

I would be obliged to have anyone interested come out to our property and discuss our concerns and the concerns of our neighbors in person.

Sincerely,

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